## REMARKS

Sixty-two claims were originally filed in the present Application. Claims 1-62 currently stand rejected. Claims 1, 15, 17, 23, 31, 45, 47, and 53 are amended herein. Reconsideration of the Application in view of the foregoing amendments and the following remarks is respectfully requested.

## 35 U.S.C. § 103

On page 2 of the Office Action, the Examiner rejects claims 1-22, 24-28, 30-52, 54-58, and 60-62 under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 6,552,744 to Chen (hereafter Chen) in view of U.S. Patent No. 6,714,249 to May et al. (hereafter May). The Applicant respectfully traverses these rejections for at least the following reasons.

Applicant maintains that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a) which requires that three basic criteria must be met, as set forth in M.P.E.P. §2142:

> "First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations."

The initial burden is therefore on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Applicant respectfully traverses the Examiner's assertion that modification of the device of Chen according to the teachings of May would produce the claimed invention. Applicant submits that Chen in combination with May fail to teach a substantial number of the claimed elements of the present invention. Furthermore, Applicant also submits that neither Chen nor May contain teachings for combining the cited references to produce the Applicant's claimed invention. The Applicant therefore respectfully submits that the obviousness rejections under 35 U.S.C §103 are improper.

Regarding the Examiner's rejection of independent claims 1 and 31, Applicant responds to the Examiner's §103 rejection as if applied to amended independent claims 1 and 31 which now recite *"utilizing a panorama manager to selectively generate one or more image parameters corresponding to adjacent frames of image data that are captured by said imaging device, at least one of said one or more image parameters corresponding to ambient lighting conditions that exist when said image data is captured, said at least one of said one or more image parameters being equal to an average value of a parameter range from all of said adjacent frames of said image data,"* which are limitations that are not taught or suggested either by the cited references, or by the Examiner's citations thereto.

With regard to claims 1 and 31, the Examiner concedes that Chen fails to "explicitly call for an image parameters corresponding to ambient lighting conditions that exist when image data is captured . . . ." Applicant concurs. The Examiner then points to May to purportedly remedy these defects, stating that "May et al discloses white balance correction process . . . ."

The Applicant submits that neither Chen nor May disclose calculating *"image parameters corresponding to ambient lighting conditions that exist when said image data is captured"* where at least one of the image parameters is "*equal to an average value of a parameter range from all of said adjacent frames of said image data,*" as claimed by the Applicant. Applicant therefore respectfully submits that the rejections of amended claims 1 and 31 is improper under 35 U.S.C. 103.

With regard to claim 61, "means-plus-function" language is utilized to recite elements and functionality similar to those recited in claims 1 and 31 as discussed above. Applicant therefore incorporates those remarks by reference with regard to claim 61. In addition, the Courts have frequently held that "means-plus-function" language, such as that of claim 61, should be construed in light of the Specification. More specifically, means-plus-function claim elements should be *construed to cover the corresponding structure, material or acts described in the specification*, and equivalents thereof.

Applicant respectfully submits that, in light of the substantial differences between the teachings of Chen and Applicant's invention as disclosed in the Specification, claim 61 is therefore not anticipated or made obvious by the teachings of Chen. Applicant specifically directs the Examiner's attention to Applicant's discussion of FIG. 5 which describes in detail certain aspects of the Applicant's claimed "means for selectively generating . . . ."

Regarding the Examiner's rejection of dependent claims 2-22, 24-28, 30-52, 54-58, and 60, for at least the reasons that these claims are directly or indirectly

dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested. Applicant therefore respectfully requests reconsideration and allowance of dependent claims 2-22, 24-28, 30-52, 54-58, and 60, so that these claims may issue in a timely manner.

For at least the foregoing reasons, the Applicant submits that claims 1-22, 24-28, 30-52, 54-58, and 60-62 are not unpatentable under 35 U.S.C. § 103 over Chen in view of May, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicant therefore respectfully requests reconsideration and withdrawal of the rejections of claims 1-22, 24-28, 30-52, 54-58, and 60-62 under 35 U.S.C. § 103.

On page 7 of the Office Action, the Examiner rejects claims 29 and 59 under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 6,552,744 to Chen (hereafter Chen) in view of U.S. Patent No. 6,009,190 to Szeliski et al. (hereafter Szeliski). The Applicant respectfully traverses these rejections for at least the following reasons.

Applicant maintains that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a) which requires that three basic criteria must be met, as set forth in M.P.E.P. §2142:

"First, there must be some suggestion or motivation, either in the

references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations."

The initial burden is therefore on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Applicant respectfully traverses the Examiner's assertion that modification of the device of Chen according to the teachings of Szeliski would produce the claimed invention. Applicant submits that Chen in combination with Szeliski fail to teach a substantial number of the claimed elements of the present invention. Furthermore, Applicant also submits that neither Chen nor Szeliski contain teachings for combining the cited references to produce the Applicant's claimed invention. The Applicant therefore respectfully submits that the obviousness rejections under 35 U.S.C §103 are improper.

With regard to claims 29 and 59, the Examiner concedes that Chen nowhere discloses that "an image processing program on a remote computer device performs a transition processing procedure on adjacent frames of image data." Applicant concur. The Examiner then points to Szeliski to remedy this defect.

The Court of Appeals for the Federal Circuit has held that "obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the

combination." In re Geiger, 815 F.2d 686, 688, 2 U.S.P.Q.2d 1276, 1278 (Fed. Cir. 1987). Applicant submits that the cited references do not suggest a combination that would result in Applicant's invention, and therefore the obviousness rejection under 35 U.S.C §103 is improper.

The Examiner states that the motivation for combining the cited references "is to create full view panoramic mosaic image (sic) from plurality of images sequences." Applicant respectfully submits that a *general restatement of the advantages disclosed by the Applicant* deriving from implementation of the present invention cannot act as the required teaching or suggestion to combine cited references for a proper rejection under 35 U.S.C. § 103. Courts have repeatedly held that "it is impermissible . . . simply to engage in *hindsight reconstruction* of the claimed invention, using the Applicant's structure as a template and selecting elements from references to fill in the gaps." In re Gorman, 18 USPQ 1885, 1888 (CAFC 1991).

Applicant suggests that merely because certain isolated aspects from cited references produce a beneficial result, this fact alone does not provide the requisite teaching for combining references under 35 U.S.C. §103. Applicant therefore respectfully requests the Examiner to provide citations to specific sections of the cited references that indicate explicit teachings for combining the cited references.

Further regarding the Examiner's rejection of dependent claims 29 and 59, for at least the reasons that these claims are dependent from respective independent claims whose limitations are not identically taught or suggested, the

limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested.

For at least the foregoing reasons, the Applicant submits that claims 29 and 59 are not unpatentable under 35 U.S.C. § 103 over Chen in view of Szeliski, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicant therefore respectfully requests reconsideration and withdrawal of the rejections of claims 29 and 59 under 35 U.S.C. § 103.

35 U.S.C. § 102(e)

In paragraph 3 of the Office Action, the Examiner rejects claims 23 and 53 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,456,323 to Mancuso et al. (hereafter Mancuso). The Applicant respectfully traverses these rejections for at least the following reasons.

"For a prior art reference to anticipate in terms of 35 U.S.C. §102, every element of the claimed invention must be *identically* shown in a single reference." *Diversitech Corp. v. Century Steps, Inc.*, 7 USPQ2d 1315, 1317 (CAFC 1988). The Applicant submits that Mancuso fails to identically teach every element of the claims, and therefore does not anticipate the present invention.

Regarding the Examiner's rejection of independent claims 23 and 53, Applicant responds to the Examiner's §102 rejection as if applied to amended independent claims 23 and 53 which now recite *"utilizing a panorama manager to selectively generate one or more image parameters corresponding to adjacent*

*frames of image data that are captured by said imaging device, said one or more image parameters including an exposure parameter"* which are limitations that are not taught or suggested either by the cited reference, or by the Examiner's citations thereto.

Mancuso teaches a "method for correcting color in a system for creating a panoramic image from a plurality of images . . . ." (column 3, lines 10-11). Mancuso is therefore limiting to techniques and methods for correcting various color parameters of captured images. In contrast, in amended claims 23 and 53, the Applicant explicitly recites "one or more image parameters including an exposure parameter," which is not a color parameter.

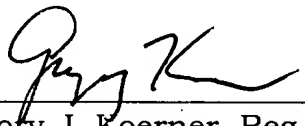
Because a rejection under 35 U.S.C. §102 requires that every claimed limitation be *identically* taught by a cited reference, and because the Examiner fails to cite Mancuso to identically teach or suggest the claimed invention, Applicant respectfully requests reconsideration and allowance of claims 23 and 53, so that these claims may issue in a timely manner.

## Summary

Applicant submits that the foregoing amendments and remarks overcome the Examiner's rejections under 35 U.S.C. §102(e) and 35 U.S.C. §103(a). Because the cited references, or the Examiner's citations thereto, do not teach or suggest the claimed invention, and in light of the differences between the claimed invention and the cited prior art, Applicant therefore submits that the claimed invention is patentable over the cited art, and respectfully request the Examiner to allow claims 1-62 so that the present Application may issue in a timely manner. If there are any questions concerning this amendment, the Examiner is invited to contact the Applicant's undersigned representative at the number provided below.

Respectfully submitted,

Date: 3/17/05

By: 

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